

**STATE OF CONNECTICUT
CONNECTICUT BOARD OF VETERINARY MEDICINE**

Wilfredo Barriosnuevo, D.V.M.
109 Connecticut Boulevard
East Hartford, CT 06108

Petition No. 980203-047-002

MEMORANDUM OF DECISION

Procedural Background

On January 19, 1999, the Department of Public Health ("the Department") presented the Connecticut Board of Veterinary Medicine ("the Board") with a Statement of Charges ("the Charges") dated November 4, 1998, against Wilfredo Barriosnuevo, D.V.M. ("respondent"). Bd. Ex. 1. The Charges, along with the Notice of Hearing, was sent to respondent by certified mail, return receipt requested, and first class mail on January 19, 1999. The Notice of Hearing scheduled a hearing for April 21, 1999, and notified the parties that the hearing would be held before the Board. Bd. Ex. 1.

Respondent filed an Answer on January 29, 1999. Bd. Ex. 3.

The Board held an administrative hearing to adjudicate respondent's case on April 29, 1999, September 8, 1999 and January 12, 2000. Respondent was represented by Attorney Charles T. Busek and the Department was represented by Attorney Joelle Newton. The Board conducted the hearings in accordance with Chapter 54 of the Connecticut General Statutes (the Uniform Administrative Procedure Act) and *Conn. Agencies Regs.* §§19a-9-1, et seq. All Board members involved in this decision received copies of the entire record and attest that they have either heard the case or read the record in its entirety. This decision is based entirely on the record.

Allegations

1. In Paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced therein, the holder of Connecticut veterinarian license number 001630.
2. In Paragraph 2 of the Charges, the Department alleges that in or about January, 1998, respondent provided negligent care to Sinbad, an eight year old Doberman Pinscher, by failing to diagnose and treat his cardiomyopathy.
3. In Paragraph 3 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to *Conn. Gen Stat.* §20-202.

Findings of Fact

1. Wilfredo Barriosnuevo of East Hartford, Connecticut, is, and has been at all times referenced in the Charges, the holder of Connecticut veterinarian license number 001630. Bd. Ex.
2. On January 7, 1998, Glenn Rothwell ("Rothwell") brought his eight year old male Doberman Pinscher, Sinbad, to respondent because Sinbad was listless, had a persistent cough, and was emitting gurgling sounds from his chest. Tr. 9/8/99, pp. 96, 97.
3. On January 7, 1998, respondent diagnosed Sinbad as suffering from Kennel Cough and prescribed an antibiotic for his treatment. Dept. Exhs. 3, 5; Tr. 9/8/98, p. 99, 101.
4. On January 8, 1998, Sinbad experienced increased listlessness and difficulty breathing, and his cough became more persistent. Tr. 9/8/99, pp. 101, 159, 160.
5. On January 9, 1998, Rothwell brought Sinbad to see respondent again, reporting his current symptoms. Respondent diagnosed Sinbad as suffering from an infected Adam's Apple and prescribed another antibiotic for his treatment. Dept. Exhs. 3, 5; Tr. 9/8/98, p. 101.
6. During the office visit of January 9, 1998, respondent failed to take any x-rays of Sinbad despite Rothwell's request that he do so. Respondent also failed to take an electrocardiogram of Sinbad or perform a complete and thorough physical examination. Tr. 9/8/99, p. 97. Respondent did not take Sinbad's pulse on January 9, 1998, nor did he measure Sinbad's respiration. Tr. 9/8/99, p. 216.
7. On January 10 and January 11, 1999, Sinbad became more listless, and was, at times, unable to support himself. Tr. 9/8/99, pp. 104, 165.
8. On January 12, 1998, Rothwell contacted another veterinarian, Dr. Kenneth Knack, because respondent was away on vacation. Tr. 9/8/99, pp. 104, 105.
9. Rothwell described Sinbad's symptoms over the phone to Dr. Knack. Dr. Knack advised Rothwell that Sinbad's symptoms suggested a heart problem and recommended that he bring Sinbad right in, which he did. Tr. 9/8/99, p. 106.
10. On January 12, 1999, Dr. Knack conducted a physical examination of Sinbad which included taking his pulse and auscultating his chest. During the physical examination, Dr. Knack detected numerous abnormal lung sounds (rales), an abnormal heart rhythm and a weak pulse. Dr. Knack also x-rayed Sinbad's chest and performed an electrocardiogram on him. Dept. Exh. 1; Tr. 4/21/99, pp. 19, 20; Tr. 9/8/99, pp. 106, 107.
11. Sinbad's x-ray revealed that he had an enlarged heart and pulmonary edema. The electrocardiogram indicated that Sinbad had an atrial fibrillation with an intra-ventricular conduction defect. Dept. Exh. 1; Tr. 4/21/99, pp. 20.
12. Dr. Knack diagnosed Sinbad as suffering from overt cardiomyopathy, and informed Rothwell that Sinbad's prognosis was extremely poor. After treating Sinbad with several medications, and prescribing additional medications for Rothwell to administer later, Dr. Knack released Sinbad to Rothwell's care. Dept. Exh. 1; Tr. 4/21/98, pp. 60, 82,

13. Sinbad expired in Rothwell's truck less than an half hour after being seen by Dr. Knack. Exh. Dept. 1; Tr. 4/21/99, p. 80.
14. Doberman Pinschers are prone to heart problems, particularly between the ages of five and nine. Dept. Exh. 4; Tr. 4/21/99, pp.37, 50,117; Tr. 9/8/99, p. 217; Tr. 1/12/00, p. 33.
15. It is reasonably likely that the symptoms Dr. Knack observed in Sinbad on January 12, 1999 were present on January 9, 1999. Tr. 4/21/98, pp. 24, 25, 93, 98; Tr. 9/8/98, pp. 18-20.
16. Difficulty breathing and persistent cough are primary symptoms of Overt Cardiomyopathy, which is readily detected by an electrocardiogram. Tr. 4/21/98, pp. 52, 82, 83, 90.

Discussion and Conclusions of Law

Section 20-202 of the Connecticut General Statutes provides, in pertinent part, that the Connecticut Board of Veterinary Medicine "may take any of the actions set forth in §19a-17 for any of the following causes . . . (2) proof that the holder of such license or certificate . . . has been guilty of . . . unskillfulness or negligence toward animals" The Department bears the burden of proving this cause by a preponderance of the evidence. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S. Ct. 999, *reh'g denied*, 451 U.S. 9333 (1981); *Swiller v. Commissioner of Public Health*, 15 Conn. Law Rptr. No.16, 532 (January 29, 1996).

The Board relied on the training and experience of its members in making its findings of facts and conclusions of law. *Pet v. Department of Health Services*, 228 Conn. 651, 667 (1994). Sinbad presented to respondent on January 9, 1998, as a listless dog with a persistent and increasingly severe cough. He was also having difficulty breathing and was emitting gurgling sounds from his chest. These symptoms had not responded to the antibiotic respondent had prescribed two days before and, in fact, had gotten worse. Sinbad's vaccination history, absence of a temperature and lack of recent exposure to other dogs did not support respondent's original diagnosis of Kennel Cough. As an eight year old Doberman Pinscher, Sinbad was particularly susceptible to heart disease and was exhibiting several of the primary symptoms of that disease. Respondent, however, continued to diagnose Sinbad as suffering from an upper respiratory infection. Had the Respondent auscultated Sinbad's chest while taking his pulse, he would have come to a different diagnosis. Sinbad's owner was not convinced that respondent's diagnosis was correct and requested that respondent perform additional tests; but respondent failed to perform an x-ray and electrocardiogram which would have quickly and definitively identified Sinbad's true medical condition.

The Board, therefore, concludes that respondent failed to conform to the standard of care for licensed veterinarians in Connecticut when, on January 9, 1998, he failed to perform a complete and thorough physical examination of Sinbad, take x-rays, and perform an electrocardiogram. In reaching this conclusion the Board relied on the following: (1) the testimony of the Department's witnesses, whom it found very credible; (2) the testimony of respondent, whom it found lacked credibility; (3) its own professional expertise; and, (4) the fact that respondent was treating Sinbad for the second time within two days for the same deteriorating condition. The Board was also influenced by the paucity and poor quality of respondent's office notes which reflected an inadequate analysis of Sinbad's condition and a deficient record of his treatment.

The preponderance of the evidence establishes that respondent acted negligently when he failed to properly diagnose and treat Sinbad on January 9, 1998 as alleged in paragraph 2 of the Charges. Therefore, respondent's license is subject to discipline pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-202(2).

Order

Based upon the record in this case, the above findings of fact and conclusions of law, and pursuant to the authority vested in it by *Conn. Gen. Stat.* §§ 19a-17 and 20-202, the Board orders the following in the case of Wilfredo Barriosnuevo, D.V.M., Petition number 980202-047-002, veterinarian license number 001630:

1. Respondent's license shall be placed on probation for a period on of one (1) year, under the following terms and conditions:
 - a. During the probationary period, respondent shall attend and successfully complete thirty (30) hours of continuing education which shall include courses in record-keeping, physical examination, internal medicine and cardiology, pre-approved by the Board. Within thirty (30) days of completion of such coursework, respondent shall provide the Department with proof, to the Department's satisfaction, of the successful completion of such courses.
 - b. Respondent shall obtain, at his own expense, the services of a veterinarian, pre-approved by the Department ("supervisor"), to conduct a quarterly random review of 20% of respondent's records, created or updated during the term of this Order.

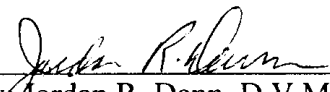
- (1) Respondent's supervisor shall meet with him not less than once every quarter for the length of his probationary period.
 - (2) The supervisor shall have the right to monitor respondent's practice by any other reasonable means he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.
 - (3) Respondent shall be responsible for providing written supervisor reports directly to the Department on a quarterly basis for the duration of the probationary period. Such supervisor's reports shall include documentation of dates and duration of meetings with respondent, number and a general description of the patient's records and patient medication orders and prescriptions reviewed, additional monitoring techniques utilized, and a statement that respondent is practicing with reasonable skill and safety.
2. If respondent completes the continuing education requirement of his probation in less than one year from the effective date of this order, he may petition the Board to terminate the probationary period. In any event, respondent shall complete a minimum of at least three (3) months of his probationary period and his probationary period shall remain in effect unless or until the Board acts affirmatively on such petition.
3. All correspondence and reports shall be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308
4. Respondent shall pay all costs necessary to comply with this Order.
5. Any alleged violation of this Order shall result in the following procedures, at the Department's discretion:
 - a. Provided that there has been no prior written modification of this Order, the Department shall notify respondent in writing, by first class mail, that the term(s) of this Order have been violated.
 - b. Said notification shall include the act(s) or omission(s) which violated the terms of this Order.

- c. Respondent shall be allowed fifteen (15) days from the date of the mailing of the notification required in subparagraph (a), above, to demonstrate to the Department's satisfaction that he has complied with the terms of this Order or that he has cured the violation in question.
- d. If, by the required date, respondent does not demonstrate, to the Department's satisfaction, that he has complied with the requirement or cured the violation, he shall be entitled to a hearing before the Board, which shall make the final determination of the disciplinary action to be taken.
- e. The evidence at such a hearing shall be limited to the alleged violation(s) of this Order.

Connecticut Board of Veterinary Medicine

10-18-00
Date


By Jordan R. Dann, D.V.M., Chairman



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

October 18, 2001

Wilfredo Barriosnuevo, DVM
109 Connecticut Blvd.
East Hartford, CT 06108-3015

Re: Memorandum of Decision
Petition No. 980203-047-002
License No. 001630
DOB: [REDACTED]
Completion of Probation

Dear Dr. Barriosnuevo:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective 10/18/2001.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Memorandum of Decision.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Sincerely,

Richard Goldman
Paralegal Specialist II*
Division of Health Systems Regulation

c: J. Filippone, PHSM
B. Pinkerton, RNC



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